

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, December 1, 2006

Division Two

**A112609 – In re Hunter N., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency v. L.C.**

The order denying the motion made pursuant to section 388 and the order terminating parental rights are affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A113253 – The People v. Jose Pulido Gutierrez.

Our independent review of the record reveals no arguable issues. Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A113643 - The People v. Maureen Michelle Henderson.

Our independent review of the record reveals no arguable issues. Accordingly, the judgment is affirmed. . Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A113798 – The People v. Kenneth Parker.

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Monday, December 4, 2006

Division One

A113541 – In re Sara M., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children & Family Services v. L.M.

The orders are affirmed. Stein, Acting, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A114576 – The People v. Frank V. Pinola.

The trial court did not abuse its discretion in denying defendant's request to strike the prior prison enhancement. It did not impose an unauthorized sentence. The judgment of conviction is therefore affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A111848 – Valerie Hagan Harlan et al. v. Bernard P. Hagan et al.

The appeal is dismissed on the court's own motion and respondents' motion for sanctions is denied. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, December 5, 2006

Division Two

A112571 – In re Aaron C., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Cherie C.

The jurisdictional order declaring Aaron C. a dependent of the court is affirmed. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

Division Four

A112773 – In re Rebekah L., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Diana L.

The clerk's notice permitting the parties to request oral argument is vacated. Appellant's request for oral argument is denied. The appeal is hereby dismissed, and this decision is final immediately. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, December 5, 2006

The Court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. (There was no 9:30 a.m. session today.) Present: Sepulveda, Acting P.J. and Rivera, J; Channing Hoo, Deputy Clerk; CHP Officer Stephen Umeki, Bailiff.

A113011 People
 v.
 Pamela Joyce Barron.
Cause called. Counsel had earlier waived P.J. Ruvolo's presence on the bench. Amy Haddix argued for appellant People. Richard Neuhoff teleargued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A111455 Gregory W. Breslin et al.,
 v.
 City and County of San Francisco et al.
Cause called. Bob Moore argued for appellants Breslin et al. Geoffrey Gordon-Creed argued for respondents. Cause submitted.

A112880 Nicholas Bettencourt et al.,
 v.
 City and County of San Francisco et al.
Cause called. Maitreya Badami argued for appellants Bettencourt et al. David Carrillo argued for respondents. Cause submitted.

Court Adjourned at 2:54 p.m.

Wednesday, December 6, 2006

Division One

A109768 – Joseph Rumie v. Soledad Martinus et al.

Appellant has failed to raise any issues concerning the default judgment entered against Martinus from which he has appealed. Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A112137 – Patrick M. Campbell v. Phillips & Cohen et al.

By the Court: Order Modifying Opinion and Denying Rehearing.

It is ordered that the opinion filed herein November 7, 2006, be modified as follows: (See order.) There is no change in judgment. Appellant's petition for rehearing and request for publication are denied. Marchiano. P.J.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, December 6, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Pollak, J.; and B. Robbins, Deputy Clerk.

- A113848 In re Tre J., a Person Coming under the Juvenile Court Law.
San Mateo County Human Services Agency,
v.
Mario V.
Cause called and argued by Robert A. Devine, counsel for appellant, via
teleconference, and Peter K. Finck, counsel for respondent. Cause ordered
submitted.
- A110195 The People,
v.
Charley Charles.
Cause called and argued by Amy Haddix, counsel for appellant, and Gabriel
Bassan, counsel for respondent. Cause ordered submitted.
- A114585 In re David Miller on Habeas Corpus.
Cause called and argued by Jennifer F. Jennings, counsel for petitioner, and
Patricia Webber Heim, counsel for real party in interest. Cause order submitted.
- A12306 URS Corporation,
v.
Earth Tech, Inc., et al.;
Quinn, Emanuel, Urquhart, Oliver & Hedges LLP.
Cause called and argued by Eric Emanuel, counsel for appellant, and Stephen H.
Dye, counsel for respondent. Cause ordered submitted.
- A106873 Juana Raquel Guillen, et al.,
v.
Arnold Schwarzenegger, as Governor of California, et al.
Cause called and argued by Karin S. Schwartz, counsel for appellant, and Clare
Pastore, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Parrilli left the bench and Justice Siggins
joined the bench.

- A107997 The People,
 v.
 Joseph Pierre Rollin.
Cause called and argued by Guy A. Campisano, counsel for appellant, and Aileen Bunney, counsel for respondent. Cause ordered submitted.
- A112258 Jonathan Do,
 v.
 Albert Lee.
Cause called and argued by Albert Lee, appellant in pro per, and Mark Reynold Figueredo for respondent. Cause ordered submitted.
- At this point in the proceedings, Presiding Justice McGuiness left the bench. Justice Parrilli re-joined the bench and presided over the remainder of the morning calendar.
- A111006 The People,
 v.
 Michael J. Wright.
Cause called and argued by J. Kyle Gee, counsel for appellant, and Jill M Thayer, counsel for respondent. Cause ordered submitted.
- A113924 Loli Victoria Wang,
 v.
 Oakland Sutter Hotel.
Cause called and argued by Loli Victoria Wang, appellant in pro per, and Denise Powers, counsel for respondent. Cause ordered submitted.

Court Adjourned.

Wednesday, December 6, 2006 (continued)

Division Four

A115216 – Marin County Department of Child Support Services v. Sean H. Kao.

The motion to dismiss the appeal is granted. Ruvolo, P.J. We Concur: Sepulveda, J.,
Rivera, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, December 7, 2006

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and P. Aguilar, Deputy Clerk.

- A113531 Hans Kurz et al.
 v.
 Federation of Pentanque, USA.
 Cause called and argued by Malcolm Misuraca, counsel for appellants, and
 Raymond Fullerton, counsel for respondent. Cause ordered submitted.
- At this point in the proceedings, Justice Swager left the bench and Justice
 Margulies joined the bench.
- A111014 People
 v.
 Saint Dejuan Moore et al.
 Cause called and argued by Walter K. Pyle, counsel for appellant Saint Dejuan
 Moore, Brian Hong, counsel for appellant Maurice Barrow, and
 Morris Lenk, counsel for respondents. Cause ordered submitted.
- A108832 Organization of Women Architects and
A109222 Design Professionals et al.
 v.
 Health Net of California, Inc. et al.
 Cause called and argued by Thomas Peterson, counsel for appellants, and
 Terrence Coleman, counsel for respondents. Cause ordered submitted.
- A107118 People
 v.
 Charles Anthony Diaz et al.
 Cause called and argued by Michael Sattris, counsel for appellant Sammie Lester,
 Eric Multhaup, counsel for appellant Robert Huffman, Randi Covin, counsel for
 appellant Charles Diaz, and Violet Lee, counsel for respondent. Cause ordered
 submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, December 7, 2006

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., Margulies, J. and F. Abad, Deputy Clerk.

A114213 People

v.

Josen Roman Garcia

Cause called and argued by Eleanor Kraft, counsel for appellant, and Martin Kaye, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench, and Justice Stein joined the bench and presided over the remainder of the proceedings.

A110543 George W. Ross, Jr.

v.

San Francisco Bar Area Transit District

Cause called and argued by Joan Wolff, counsel for appellant, and Thomas Lee, counsel for respondent. Michael Couzens, co-counsel for appellant appeared but did not argue. Cause ordered submitted.

A112107 N.V. Heathorn, Inc. et al.,

A112345 v.

United States Fidelity and Guaranty Company

Cause called and argued by Joseph Thomas, counsel for appellants/cross-respondents, and Marilyn Klinger, counsel for appellant/cross-respondent. Cause ordered submitted.

Court Adjourned.

Thursday, December 7, 2006

Division Three

A112433 – In re Thomas R. et al., Persons Coming Under the Juvenile Court Law. Napa County Department of Health and Human Services v. Robert R.

The order terminating parental rights is reversed. The case is remanded to the juvenile court for a new section 366.26 hearing. Siggins, J. We Concur: McGuinness, P.J., Pollak, J. (Certified for Publication.)

Division Four

A111579 – Linda U. McKinley v. San Francisco Bay Area Rapid Transit District.

We reverse the summary judgment in favor of BART on appellant's negligence cause of action and remand for further proceedings in accordance with this opinion. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A114133 – In re Gabriel C., a Person Coming Under the Juvenile Court Law. The People v. Gabriel C.

The juvenile court orders are affirmed. Gemello, J. We Concur: Simons, Acting P.J., Miller, J.* (Not for Publication.)

A112714 – In re A.W., a Person Coming Under the Juvenile Court Law. The People v. A.W.

The disposition order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A111127 – Barbara G. Epis v. Vancamp Vai et al.

The trial court's order of specific performance is affirmed. Costs on appeal to respondents. Simons, J. We Concur: Jones, P.J., Bruiniers, J.* (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 8, 2006

Division Two

A111105 – The People v. Leon Seymour.

This appeal is dismissed as moot. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A111664 - In re Rocio N. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jorge N.

This appeal (case No. A111664) is dismissed as moot. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

A108919 – The People v. John Sundquist.

This appeal is dismissed as moot. Lambden, J., We Concur: Haerle, P.J., Richman, J. (Not for Publication.)

Division Three

A113932 – The People v. Chance Antonio Vigil.

The judgment for case numbers FCR 228470 and FCR 229225 is modified to reflect a combined \$200 restitution fine pursuant to section 1202.4 and a combined \$200 parole revocation restitution fine pursuant to section 1202.45. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in accordance with this disposition and deliver it to the Department of Corrections and Rehabilitation. McGuinness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A112568 – Joel Baker v. Oakland Unified School District.

The order denying Baker's motion to set aside and vacate the summary judgment in favor of OUSD is affirmed in its entirety. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Friday, December 8, 2006 (continued)

Division Five

A113272 – In re the Marriage of Jose and Agueda Gaviria. Jose Gaviria v. Agueda Gaviria.

The judgment is affirmed. Bruiniers, J.* We Concur: Jones, P.J., Simons, J. (Not for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, December 11, 2006

Division One

A114552 – The People v. Jeffrey Dan Givan.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A114498 – The People v. Tyrone Wilson.

The sentence imposed is authorized by law. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A114580 - The People v. William Frederick Branson.

Our independent review of the record reveals no arguable issues. Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A113049 – Linda L. Arnold v. Albert J. Scoma et al.

As is apparent from the order quoted above, the trial did not address the first amended complaint on a cause-of-action by cause-of-action basis. Thus, there has been no determination whether any of the causes of action fail to state claims for reasons unrelated to the fundamental defect the trial court concluded was present here. In light of this, it is not our task to determine these issues in the first instance. “[O]ur inquiry ends and reversal is required once we determine a complaint has stated a cause of action under any legal theory.” (*Genesis Environmental Services, v. San Joaquin Valley Unified Air Pollution Control Dist.* (2003) 113 Cal.App4th 597, 603.)

Having said that, we are skeptical that some of the causes of action may in fact not survive pleading attacks on them, which attacks we neither invite nor discourage. We simply reverse the order of December 20, 2005, and remand the matter to the superior court with directions to vacate that order sustaining the general demurrer without leave to amend and to enter an order overruling it. Arnold shall recover her costs on appeal. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

Monday, December 11, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Richman, J., Officer Scrivner, and I. Santos, Deputy Clerk.

Presiding Justice Kline announces that he will not be participating in the first case. Justices Haerle, Lambden, and Richman will participate in the first case. Justices Kline, Haerle, and Lambden will participate in the remainder of the calendar.

A111649 Robert Davis et al.,
 v.
 Nicholas Alexander.
Cause called and argued by Michael Cohen, counsel for appellant, and Jeanette Little, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Richman leaves the bench.

A111882 The People,
 v.
 Matthew David Ford.
Cause called and argued by Thea Greenlough, counsel for appellant, and Allan Yarrow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A111995/
A114684 The People,
 v.
 Joseph L.
 In re Joseph L., a Minor, on Habeas Corpus.
Cause called and argued by Paul Richard Kleven, counsel for appellant, and Christopher Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A112564 Christopher Womack,
 v.
 San Francisco Community College District et al.
Cause called and argued by Dean Royer, counsel for appellant, and by Christine Maloney, counsel for respondent. Cause ordered submitted.

A111043 In re the Marriage of Diane Noakes and Steven Kettermann.
Steven Kettermann
v.
Diane Noakes.
Cause called and appearing before the court is Paul Lewis, counsel for appellant,
and Bryce Anderson, counsel for respondent. Appellant given five (5) days to
provide this Court with the Reporter's Transcripts of the trial court proceedings.
Appellant waives oral argument and submission of case will be delayed for 60
days.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J., Richman, J., Officer
Scrivner and I. Santos, Deputy Clerk.

A110614 The People,
v.
David Dwayne Washington.
Cause called and argued by Jeffrey Glick, counsel for appellant, and by
Sharon Birenbaum, Deputy Attorney General, counsel for respondent. Cause
ordered submitted.

A112593 Richard Pollard,
v.
Metalclad Insulation Corporation.
Cause called and argued by Robyn Stein, counsel for appellant, and by
Camille Fong, counsel for respondent. Cause ordered submitted.

A112099 Julia Bono,
v.
Elicia W. David.
Cause called and argued by Lewis Soffer, counsel for appellant, and Julia Bono,
in propria persona. Cause ordered submitted.

Court Adjourned.

Monday, December 11, 2006 (continued)

Division Three

A112047 – Mendocino Game Company , et al. v. Sally Stewart, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A112611 – In re Kayla S. et al., Persons Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Doriana M. et al.

The jurisdictional and dispositional orders are affirmed as to Kayla, and reversed as to Adam and Hailey. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A112844 – In re Alexander B., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Joseph B.

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A112974 – In re S.A., a Person Coming Under the Juvenile Court Law. Contra Costa County Children & Family Services Bureau v. Walter A., et al.

The order is affirmed. Gemello, J. We Concur: Jones, P.J., Miller, J.* (Not for Publication.)

A111586 – Linda Taylor, as Conservator, etc. v. Miles F. Adler et al.

The summary judgments in favor of Adler, Liu, and Mandel are affirmed. Costs on appeal to respondents. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 12, 2006

Division Two

**A113231 – In re Lauren K., et al., Persons Coming Under the Juvenile Law.
Humboldt County Department of Health & Human Services v. Timothy R.**

The orders appealed from are affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J.
(Not for Publication.)

A113357 – Paul D. Stutrud v. City of Rohnert Park.

The judgment of dismissal is reversed. Richman, J. We Concur: Haerle, Acting P.J.,
Lambden, J. (Not for Publication.)

Division Three

A111006 – The People v. Michael James Wright.

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for
Publication.)

**A113354 – In re Autumn S., a Person Coming Under the Juvenile Court Law.
Sonoma County Human Services Department v. Samantha S.**

The orders of the juvenile court are affirmed. Parrilli, J. We Concur: McGuinness, P.J.,
Pollak, J. (Not for Publication.)

A112258 – Jonathan C. Do v. Albert Lee.

The order denying Lee's motion to strike the cause of action for interference with
prospective economic advantage is reversed and on remand the trial court is directed to grant the
motion. Lee is to recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Siggins, J.

Wednesday, December 13, 2006

Division One

A110849 – The People v. Jimena Barreto.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A109515 – The People v. Farooq A. Aleem.

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on November 17, 2006, be modified as follows: (See order.) There is no change in the judgment. Defendant's petition for rehearing is denied. Stein, Acting P.J. (Certified for Partial Publication.)

Division Two

A111587 – Daniel Hasso et al. v. Alameda County et al.

The appeal is dismissed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A112237 – The People v. Jaime Guzman.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A113848 – In re Tre J., a Person Coming Under the Juvenile Court Law. San Mateo County Department of Children and Family Services v. Mario V.

The juvenile court's order of February 28, 2006 is vacated, and the matter is remanded to the juvenile court for findings on the applicability of the ICWA. If the juvenile court concludes the tribes were properly notified under the ICWA, and that no tribe indicated Tre as an Indian child within the meaning of the ICWA, then the juvenile court may reinstate its order terminating parental rights pursuant to section 366.26. In all other respects, the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Wednesday, December 13, 2006 (continued)

Division Three

A113924 – Loli Victoria Wang v. Oakland Sutter Hotel.

The judgment is affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

A107997 – The People v. Joseph Pierre Rollin.

The judgment is reversed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A113906 – The People v. Michael Sean Shaffer.

Judgment affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Wednesday, December 13, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., Bruiniers, J., on assignment by the Chief Justice, and Richard H. Sandvik, Deputy Clerk.

- A111642 Kenneth J. Howard
 v.
 Christopher Dolan
 Cause called and argued by Alan Bayen and Heather E. Borlase, counsel for
 appellant, and by Christopher Dolan, respondent in pro per. Cause ordered
 submitted.
- A111317 Todd Beth, et al.
 v.
 Everett C. Doughty, III
 Cause called and argued by Joan Wolff, counsel for appellant, and by Peter
 Logan, counsel for respondent. Submission Deferred.
- A113041 Todd Beth, et al.
 v.
 Everett C. Doughty, III
 Cause called and argued by Joan Wolff, counsel for appellant, and by Peter
 Logan, counsel for respondent. Submission Deferred.
- A114082 Shaul Harosh
 v.
 Efraim Shoua
 Cause called and argued by Michael Hoffman, counsel for appellant, and by
 Richard Harrington, counsel for respondent. Cause ordered submitted.
- A114762 Shaul Harosh
 v.
 Efraim Shoua
 Cause called and argued by Michael Hoffman, counsel for appellant, and by
 Richard Harrington, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Jones, P.J. left the bench and Bruiniers, J. entered.

A113153 Sioma Shapochnik
v.
Alameda County Medical Center
Cause called and argued by Sioma Shapochnik, appellant in pro per, and by Gregory Rockwell, counsel for respondent. Cause ordered submitted.

A110355 The People,
v.
Jacob Earl Johnson et al.
Cause called and argued by David M. Thompson, arguing via teleconference, and Donald L. Lipmanson, counsel for appellants, and by Brian D. Newman, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Gemello, J. left the bench and Jones, P.J. entered.

A112502 Agilysys, Inc.
v.
Microsemi Corporation
Cause called and argued by Paul Kim, counsel for appellant, and by Stephen J. Kottmeier, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Bruiniers, J. left the bench and Miller, J. entered.

A114341 Gretchen Lewis
v.
Elan Grozbord
Cause called and argued by Elan Grozbord, appellant in pro per, argued via teleconference, counsel for respondent did not appear. Cause ordered submitted.

A113328 Dickey O'Dell Lee
v.
Thyssenkrupp Elevator Corporation
Cause called and argued by Roy K. Powlan, counsel for appellant, and by Michelle Carter, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Simons, J. left the bench and Gemello, J. entered.

A112854 Cynthia Hanh, et al.
v.
Daniel Mirda, et al.
Cause called and argued by Jay-Allen Eisen, counsel for appellants, and by Priscilla P. Debois, counsel for respondents. Cause ordered submitted.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Wednesday, December 13, 2006

Court convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Simons, J., Gemello, J., Miller, J., on assignment by the Chief Justice, and Richard H. Sandvik, Deputy Clerk.

- A112383 Robert Roe
 v.
 State Personnel Board
Cause called and argued by Gary S. Garfinkle, counsel for appellant, and by Lyn Harlan, counsel for respondent. Cause ordered submitted.
- A113063 Ivora Gerena
 v.
 State of California
Cause called and argued by Dane J. Durham, counsel for appellant, and by Kenneth Nellis, counsel for respondent. Cause ordered submitted.

Court Adjourned at 2:35 p.m.

Thursday, December 14, 2006

Division One

A111737 – The People v. Eulie Wigfall.

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on November 21, 2006, be modified as follows: (See order.) There is no change in the judgment. The petition for rehearing is denied. Marchiano, P.J. (Not for Publication.)

Division Two

A112525 – In re M.V., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Tina F. et al.

The section 388 order is reversed. The matter is remanded for further proceedings consistent with the views expressed in this opinion, and with consideration of M.V.'s current circumstances. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A110073 – Geronia Quarles v. Advocate Mines Limited.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A111713 – Ross Dodson, et al. v. Edward M. Fishman, et al.

The judgment filed June 27, 2005, and the first amended judgment filed August 25, 2005, are reversed. The matter is remanded to the superior court to enter a new order denying the motion by defendants Edward Marc Fishman and Rebecca Lynne Mann for summary judgment. Plaintiffs are awarded costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

A110137 – Paul Miller, et al. v. Bank of America, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Thursday, December 14, 2006 (continued)

Division Four

A109077 – Patricia A. McColm v. David Greenbaum et al.

The judgment is affirmed. Respondents are entitled to their costs on appeal, in an amount to be determined by the trial court. Sepulveda, J. We Concur: Ruvolo, J., Reardon, J. (Not for Publication.)

A113545 – In re Chelsea P., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Judith P.

The order is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A112724 – John Shevchuk v. Workers' Compensation Appeals Board and United Airlines.

The Board's order after reconsideration is annulled, and the matter returned to the Board with directions to reverse the WJC's order, and recalculate the amount of Shevchuk's permanent disability benefits in accordance with this opinion. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A114082/A114762 – Shaul Harosh v. Efraim Shoua et al.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A113153 – Sioma Shapochnik v. Alameda County Medical Center.

The judgment is affirmed. Bruiniers, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

A111600 – The People v. David Windham.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

A112502 – The People v. Eric Johnson.

The judgment is modified to strike the one year sentence enhancement for appellant's uncompleted prison term from his 2000 convictions, and is otherwise affirmed. The matter is remanded to the trial court for the limited purpose of correction of the abstract of judgment, and the forwarding of a corrected abstract to the Department of Corrections. Bruiniers, J.* We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 15, 2006

Division One

A114213 – The People of the State of California v. Jose Roman Garcia.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A112439 – In the Matter of J.W. et al., Persons Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Sarah M.

The findings and orders of the juvenile court are affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A111524 – The People v. Jose Prado.

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A113011 – The People v. Pamela Joyce Barron.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Monday, December 18, 2006

Division One

A111000 – The People v. Kelsey Morris Thomas.

The judgment is affirmed. Stein, J. We Concur: Marchiano. P.J., Margulies, J. (Not for Publication.)

Division Two

A111423 – Paul R. Lozada v. City and County of San Francisco et al.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Certified for Publication.)

A114350 – The People v. Jerome Gee.

The order revoking appellant's probation and sentence imposed are affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A114358 – The People v. Robert Edward Palmieri.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J. Pollak, J. (Not for Publication.)

A112310 – Spencer Lee, et al. v. California Pacific Bank, et al.

The September 14, 2005, judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

Division Four

A113249 – The People v. Jeff Hawkins.

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A107876 – The People v. Thomas George Carson.

The judgment is reversed and the matter is remanded to the trial court with directions to vacate the plea, to rearraign Carson for plea, and to conduct further proceedings not inconsistent with this decision. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Monday, December 18, 2006 (continued)

Division Four

A111936 – The People v. Brian Bud Benson.

The judgment is affirmed in its entirety. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J.
(Not for Publication.)

Division Five

A111278 – American Canyon Community United For Responsible Growth v. City of American Canyon et al.; Lake Street Ventures, L.L.C., et al, R.P.I.

By the Court: The opinion in the above-entitled matter filed November 13, 2006, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be partially published in the Official Reports, and it is so ordered. Pursuant to California Rules of Court, rules 976(b) and 976.1, the opinion is certified for publication with the exception of Part III. Jones, P.J. (Certified for Publication.)

Tuesday, December 19, 2006

Division One

A114128 – In re M.B., a Person Coming Under the Juvenile Court Law. The People v. M.B.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, J., Stein, J. (Not for Publication.)

A113356 – Loretta Baker et al. v. Raymond Barenchi.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A113307 – The People v. Alexis Anthony Rosas.

The judgment and sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A109989 – The People v. Dante Ymaine Washington.

The judgment and sentence are affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A111460 – The People v. Victory Ray Crawford.

The judgment of conviction is modified by staying the sentences imposed on Counts 2 and 6 pursuant to Penal Code section 654. As so modified, the judgment is affirmed. The clerk of the trial court is directed to prepare an amended abstract of judgment reflecting these modifications, and to forward a certified copy to the Department of Corrections and Rehabilitation. Richman, J. We Concur: Haerle, Acting, P.J., Lambden, J. (Not for Publication.)

A115109 – In re Jeremiah W., a Person Coming Under the Juvenile Court Law. The People v. Jeremiah W.

Having independently reviewed the entire record, we find no arguable issue and, accordingly, affirm the judgment. Lambden, J. We Concur: Kline, P.J., Haerle, J.

Tuesday, December 19, 2006 (continued)

Division Three

**A112306 – URS Corporation, a Nevada Corporation v. Earth Tech., Inc., et al.;
Quinn Emanuel Urquhart Oliver & Hedges, LLP, R.P.I.**

The orders granting the motion to disqualify and denying the motion for reconsideration are affirmed. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A113395 – Malik Benyahia v. Debra Wertzberger.

The order denying Benyahia's Hague Convention petition for the return of his three minor children to France is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

A114585 – In re David Miller on Habeas Corpus.

We hold that petitioner was improperly denied his right to confront and cross-examine the adverse witnesses against him. Consequently, let a writ of habeas corpus issue directing the Board of Parole Hearings either promptly to hold a new hearing consistent with this opinion or to release the petitioner. (See *In re La Croix* (1974) 12 Cal.3d 146, 156 [parolee whose right to a timely pre-revocation hearing is denied is entitled to an order releasing him or an order to conduct a timely hearing].) All references to the parole violation based on the February 14, 2006 parole revocation hearing shall be stricken from petitioner's records. Parrilli, J. We Concur: McGuinness, P.J. Pollak, J.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, December 19, 2006

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Ruvolo, P.J., Reardon, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Viktor Scrivner, Bailiff.

A112029 Yasmeen Tanzel
 v.
 The City of Richmond
Cause called. Joseph M. Quinn argued for appellant City. Mark Clausen argued for respondent. Cause submitted.

A104336 People
 v.
 Robert Thomas III
Cause called. Wilson A. Schooley argued for appellant Thomas. Jill Thayer argued for respondent. Cause submitted.

For the next cause, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.

A113481 Southern California Labor/Management Operating Engineers, etc.
 v.
 John M. Reardon, J., as Acting Director,
 Ford Construction Company
Cause called. Donald C. Carroll argued for appellant Engineers. Sarah Cohen argued for respondent. Cause submitted.

For the next causes, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A112704 St. Helena Community Partners
A112888 v.
 CMR Mortgage Fund
Causes called. John L. Fitzgerald argued for appellant Partners. Ian Johnson argued for respondents. Causes submitted.

Court recessed at 11:19 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, December 19, 2006

The Court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Ruvolo, P.J., Reardon, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

A113062 Steven L. Gomes et al.
 v.
 Ukiah Unified School District.
Cause called. Brian C. Carter argued for appellants Gomes et al. John P. Kelley argued for respondent. Cause submitted.

For the next cause, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.

A109274 Amelco Industries, Inc. et al.
 v.
 Automated Switching & Controls, Inc. et al.
Cause called. Brenda Reddix-Small argued for appellants Automated et al. Frederick Baker argued for respondent. Cause submitted.

For the next cause, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A111990 The People,
 V.
 Timothy Richard Swartz.
Cause called. Thea Greenhalgh teleargued for appellant Shwartz. Christopher Grove argued for respondent. Cause submitted.

Court adjourned at 2:56 p.m.

Wednesday, December 20, 2006

Division One

A114765 – The People v. Daniel Amador DeLosSantos.

After a full review of the record and defendant's "letter brief," we find no arguable issues and, accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A113898 – The People v. Lawrence Michael Kaestner.

The judgment is affirmed. Haerle, Acting, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A111649 – Robert Davis et al. v. Nicholas Alexander.

The judgment is affirmed. Respondent is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A112201 – The People v. Kevin Cunningham.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A114054 – The People v. Randall Anthony Severdia.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A110037 – The People v. Maonte Haney.

We direct that the abstract of judgment be modified to comport with the jury's true findings on the great bodily injury enhancement imposed on count three, and imposed and stayed as to counts four, five and six. In all other respects we affirm the judgment. Reardon, J. We Concur: Ruvolo, P.J. Rivera, J. (Not for Publication.)

Wednesday, December 20, 2006 (continued)

Division Four

A115572 - City of Modesto v. The Dow Chemical Company.

A115573 – City of Modesto v. Vulacan Material Company.

A115574 – City of Modesto v. Occidental Chemical Corporation.

A115576 – City of Modesto v. PPG Industries.

A115577 – City of Modesto v. R.R. Street & Company, Inc.

Well-settled case law makes clear that no appeal can be taken from interim rulings in a bifurcated case. Accordingly, the five appeals and one cross-appeal are dismissed. The city has moved to consolidate these five appeals with its related cross-appeal. In light of this opinion, we deny the motion to consolidate. Ruvolo, J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Thursday, December 21, 2006

Division One

A114988 – League of Women Voters of California et al. v. Bruce McPherson, as Secretary of State, et al.

Let the peremptory writ of mandate issue directing respondent, the Secretary of State, to issue a memorandum informing the county clerks and elections officials that the only persons disqualified from voting by reason of article II, section 4 are those who have been imprisoned in state prison or who are on parole as a result of the conviction of a felony.

In order to ensure timely implementation of this decision, absent further order of this court, this opinion will be final as to this court on January 10, 2007. (Cal. Rules of Court, rule 24(b)(3).) Stein, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

Division Two

A111860 – The People v. James Lavell Harris.

Appellant's conviction is reversed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

A111596 – The People v. Ernie Campbell.

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A114474 – The People v. Robert Todd Myers.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J. Sepulveda, J. (Not for Publication.)

A115398 – Michael Christopher London et al. v. The Superior Court of Sonoma County; Annie F. Maniscalco, R.P.I.

Let a peremptory writ of mandate issue directing respondent superior court to vacate its May 23, 2005 order granting Maniscalco's motion to expunge the lis pendens and awarding her \$900 in fees and costs. Instead, the trial court shall enter a new order denying Maniscalco's motion and awarding the Londons their fees and costs of opposing the motion. (§ 405.38.) The Londons shall recover their costs for this proceeding. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Thursday, December 21, 2006 (continued)

Division Four

A113030 – The People v. Luis Eduardo Olivares.

A115964 – Luis Eduardo Olivares v. The Superior Court of San Mateo County; The People, R.P.I.

We deny petitioner's petition for writ of mandate (A115964) and dismiss his appeal (A113030). However, because petitioner has made a prima facie case that the instant action is time-barred and thus he is entitled to relief, we exercise our discretion to treat the failed appeal as a petition for writ of habeas corpus on the issue of whether the statute of limitations in this case has been tolled.

Therefore, respondent Attorney General is ordered to show cause before the Presiding Judge of San Mateo County Superior Court, or his or her designee, when the matter is placed on the calendar, why appellant's conviction should not be reversed because the charged offense on its face is time-barred. If the superior court determines that the cause is time-barred, we direct that it set aside the conviction and enter judgment accordingly; if it determines that the statute of limitations has been tolled under section 803, we direct that the court deny the petition.

The clerk of this court shall serve certified copies of this order on all parties to the proceeding and to the presiding judge of the superior court. Service shall be complete upon mailing by the clerk, which shall occur on or before January, 2, 2007. The clerk shall also serve copies of all filings herein on the superior court.

Respondent shall file a return to this order to show cause in the San Mateo County Superior Court on or before February 1, 2007. (Cal. Rules of Court, rule 4.551 (d).) Petitioner may file a denial or traverse thereto on or before March 5, 2007 (*Id.*, rule 4.551 (e).) The trial court may shorten or extend these deadlines for good cause shown. (*Id.*, rule 4.551 (h).)

If, as most likely will be the case, after considering all the papers, including any affidavits or declarations under penalty of perjury and matters of which judicial notice may be taken, the superior court determines that petitioner's entitlement to relief depends on resolution of one or more issues of fact, the court must conduct an evidentiary hearing to resolve the disputed issues. (Cal. Rules of Court, rule 4.551 (f).) Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A114475 – The People v. Richard George Haley.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A113063 – Ivoria Gerena v. State of California Department of Transportation.

The judgment is affirmed. Gemello, J. We Concur: Simons, Acting P.J., Miller, J.*

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 22, 2006

Division Three

A112682 – The People v. Efren Ayala Bautista.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A113081 – In re D.D., a Person Coming Under the Juvenile Court Law. The People v. D.D.

The juvenile court's placement order is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A113440 – In re Diana V., A Person Coming Under the Juvenile Court Law. The People v. Diana V.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Five

A110355 – The People v. Joseph Boudames.

The victim restitution order is reversed and remanded with directions to calculate a restitution order based only on the economic losses of the Board of Equalization. The clerk of the superior court shall prepare and deliver to the Department of Corrections an amended abstract of judgment consistent with the newly calculated order. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Simons, J. Bruiniers, J. * (Certified for Partial Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 26, 2006

Division Three

A107551, A107552 – California Association of Health Facilities v. State Department of Health Services.

The judgments in favor of DHS are reversed and the cases are remanded for further proceedings. On remand of San Francisco Superior Court case NO. 425819 (appellate case No. A107551), the trial court shall enter an order dismissing CAHF's claim for violation of Health and Safety Code section 1426 only. DHS shall bear costs on appeal. McGuiness, P.J. I Concur: Parrilli, J. (See concurring opinion by Pollak, J.) (Not for Publication.)

A1009241 – Lawrence B. Karp v. State Board of Registration for Professional Engineers and Land Surveyors et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A113640 – The People v. David Parris.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A104336 – The People v. Robert Thomas III.

Defendant's conviction for false imprisonment is affirmed. The conviction on the charge of corporal injury upon a cohabitant is reversed, and the matter is remanded to the trial court to permit a hearing on the issue of forfeiture. If such a hearing is held and the trial court finds that defendant has forfeited his Sixth Amendment right to confrontation, the court should reinstate the defendant's conviction of corporal injury to a cohabitant. If the court determines that defendant did not forfeit his Sixth Amendment right to confrontation, it should set the case for a new trial on the charge of corporal injury to a cohabitant. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Wednesday, December 27, 2006

Division One

A113551 – Hans Kurz et al. v. Federation of Petanque, U.S.A.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication.)

A113786 – The People v. Maurquise Johnson.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A113886 – The People v. Frederick Lee Torralva.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

A114249 – The People v. Robert Paul Hair, Jr.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A113304 – In re Maurice H., a Person Coming Under the Juvenile Court Law. The People v. Maurice H.

The cause is remanded to the juvenile court with instructions to issue a corrected order setting out the three-year term of placement and to reflect the term of probation barring unsupervised visitation with minors under age 14. As modified, the order is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Wednesday, December 27, 2006 (continued)

Division Five

A114157 – Mark and Kimberly Zembsch v. The Superior Court of Alameda County; Health Net of California Inc., et al, R.P.I.

The order to show cause is discharged, and the petition is granted. Let a peremptory writ of mandate issue directing the trial court to vacate its order compelling arbitration, and to enter a new and different order denying the motions to compel arbitration. The previously issued stay shall dissolve upon the finality of this decision in this court. (Cal. Rules of Court, rule 24(b)(1).) In the interests of justice, this decision shall be final as to this court 15 calendar days after filing. (*Id.* rule 24(b)(3).) Petitioners shall recover their costs. (*Id.* rule 56(m).) Gemello, J. We Concur: Jones, P.J., Bruiniers, J.* (Certified for Partial Publication.)

A113368 – In re Anthony W., a Person Coming Under the Juvenile Court Law. The People v. Anthony W.

The juvenile court orders are affirmed. Gemello, J. We Concur: Jones, P.J., Miller, J.* (Not for Publication.)

A114240 – The People v. Kristopher A. Coon.

The judgment of conviction is affirmed. Miller, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 28, 2006

Division One

A111014 – The People v. Saint Dejuan Emerson Moore.

The judgments of conviction are affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J.

A115735 – Kevin F. v. Superior Court of Contra Costa County; Contra Costa County Bureau of Children & Family Services et al, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) This decision is final in this court immediately. (rule 24(b)(3).) Marchiano, P.J. We Concur: Stein, J. Swager, J. (Not for Publication.)

Division Three

A110354 – The People v. James Edward Wren.

The order of commitment is affirmed. McGuinness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A110991 – In re B.W., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services, Social Services Branch v. L.W.

The order filed October 19, 2004, and the custody order and juvenile final judgment, filed on November 23, 2004, are affirmed. McGuinness, P.J. We Concur: Parrilli, J. Pollak, J. (Not for Publication.)

Division Four

A114025 – The People v. Stacy Orlando Brown.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A108528 – The People v. Randie Paul Jordan.

By the Court: The written opinion that was filed November 30, 2006, has now been certified for publication pursuant to rule 978 of the California Rules of Court, and it is ordered published in the Official Reports. Reardon, Acting P.J.

Thursday, December 28, 2006 (continued)

Division Five

A113511 – The People v. Abraham R. Corona.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Bruiniers, J.* (Not for Publication.)

A115337 – Patricia S. v. The Superior Court of Marin County; Marin County Department of Health and Human Services et al, R.P.I.

A115338 – Albert L. v. The Superior Court of Marin County, Marin County Department of Health and Human Services et al, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Parents are barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a 366.26 hearing. (§366.26, subd. (I).) Because the 366.26 hearing is set for January 2, 2007, our decision is final immediately. (Rule 24 (a).) Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 29, 2006

Division One

A110357 – The People v. Maher Conrad Suarez.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J. Swager, J. (Not for Publication.)

A112531 – In re Erin R., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Arnis R. et al.

The judgment appealed from is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A108857 – The People of the State of California v. Phillip Gipson.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A113073 – The People v. Stewart Anthony Pratt.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A112779 – The People v. Brian Welch-Nielsen.

The judgment and sentence appealed from are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A112281 – Scottsdale Insurance Company v. Chinese Consolidated Benevolent Association.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A112419 – In re Antonio L., a Person Coming Under the Juvenile Court Law. The People v. Antonio L.

The matter is remanded for the juvenile court to determine whether the offenses Antonio was found to have committed were misdemeanors or felonies. In all other respects, the juvenile court's order is affirmed. McGuiness, P.J. We Concur: Parrilli, J, Pollak, J. (Not for Publication.)

Friday, December 29, 2006 (continued)

Division Five

A112885 – Agilysys, Inc. v. Microsemi Corporation.

The judgment is affirmed. Bruiniers, J.* We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A111974 – The People v. Jerry Thorpe.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.